

WGAW Position on Wireless Spectrum

Writers Guild of America, West (WGAW) supports a competitive media marketplace that allows diverse stories created by writers an opportunity to reach the public. While consolidation and deregulation have allowed a small number of vertically integrated companies to control television production, exhibition and distribution, the Internet enables the reintroduction of competition and independent programming. Original, professional programming is now exhibited across a growing number of online sites. YouTube, Hulu and Netflix have made significant investments in original, independent programming. However, concentration in the distribution of both wired and wireless Internet threatens to stifle these pro-competitive developments. Many wired broadband providers have instituted data caps that limit consumer adoption of online video viewing. The high entry barriers for wired broadband limit the potential for new entrants, making competitive wireless broadband offerings necessary for the development of a robust online video market.

Spectrum Policies Affect Competition

The FCC decision to remove the spectrum cap in 2001 has had a detrimental impact on competition. Between 2001 and 2011, a number of mergers increased consolidation in the marketplace. By 2011, four nationwide providers—AT&T, Verizon, T-Mobile and Sprint—accounted for 90% of the nation's mobile wireless subscribers, down from six national providers in 2000.² AT&T and Verizon alone control 64% of the wireless market.³

The lack of competition is impairing the development of a mobile video market. Currently 64 million consumers own some form of tablet device, and smartphone penetration has reached 47% of US mobile device owners, or 110 million people. Widespread adoption of these devices can increase video consumption, benefitting content creators seeking an audience and consumers, who now have increased flexibility to choose when and where they watch video. Unfortunately the data plans currently offered, particularly by market leaders AT&T and Verizon, discourage video viewing through low data caps, expensive plans and hefty overage fees. As wireless providers have acquired spectrum, data has become more expensive to the consumer, not less, because there is not enough competition to incentivize wireless providers to offer affordable data plans.

¹ Stacey Higginbotham, "Which ISPs are capping your broadband, and why?" *GigaOm*, October 1, 2012, http://gigaom.com/2012/10/01/data-caps-chart/.

² FCC, Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Services, 15th Report, WT Docket 10-133, 2011, Table 4.

³ SNL Kagan, "Wireless Industry Benchmarks – Wireless Subscribers 2012 Q3," http://www.snl.com.

⁴ SNL Kagan, "U.S. Tablet Projections," July 5, 2012, http://www.snl.com and Ingrid Lunden, "ComScore: US Smartphone Penetration 47% In Q2; Android Remains Most Popular, But Apple's Growing Faster," *Tech Crunch*, August 1, 2012, http://techcrunch.com/2012/08/01/comscore-us-smartphone-penetration-47-in-q2-android-remains-most-popular-but-apples-growing-faster/.

Spectrum Policies to Enhance Competition

WGAW supports spectrum policies that will enhance competition in the broadband Internet access market. Policies that address spectrum aggregation, protect unlicensed spectrum and institute strong performance requirements for spectrum license holders will serve the public interest by increasing consumer choice and facilitating the development of an online video market that can be used to offer diverse and independent content.

- Limit Spectrum Aggregation: The FCC's spectrum screen process has failed to promote competition. This process does not account for qualitative differences in spectrum which has allowed AT&T and Verizon to acquire much of the most valuable lower frequency spectrum. In the Commission's current spectrum proceeding the Department of Justice (DOJ) has also echoed this concern, noting that the efficiencies of low-frequency spectrum can reduce network development costs and allow smaller carriers to expand service. DOJ has urged the Commission to prevent the larger carriers from foreclosing access to low-frequency spectrum in the upcoming auction.⁵ A spectrum aggregation policy that appropriately weights spectrum and limits the aggregation of higher value spectrum will promote competition.
- Protect Unlicensed Spectrum: Unlicensed spectrum is critical for promoting competition
 and innovation in the wireless market. Wi-Fi networks have made it possible for
 consumers to watch video on wireless devices. The WGAW supports the Commission's
 plan to allow the use of unlicensed spectrum in the guard bands following the 2014
 auction as well as the recently announced plan to free an additional 195 MHz in the 5
 GHz band for unlicensed use.⁶ We encourage the Commission to establish a minimum
 amount of unlicensed spectrum by geographic area to prevent reductions in the
 availability of this vitally competitive resource.
- Institute Strong Performance Requirements for License Holders: Performance
 requirements are necessary to ensure that companies put this valuable public resource
 to productive use. Licensees should be required to meet multiple performance
 benchmarks throughout the license term to prevent spectrum warehousing. Licensees
 that do not meet performance benchmarks should face reduced license terms or license
 cancellations.

Who We Are

WGAW is a labor organization representing more than 8,000 professional writers of motion pictures, television, radio, and Internet programming, including news and documentaries. For more information on the WGAW, please visit: www.wga.org.

⁵ Ex Parte Submission of the Department of Justice, In the Matter of Policies Regarding Mobile Spectrum Holdings, WT Docket No. 12-269, at 14.

⁶ FCC, "Chairman Announces Effort to Increase Wi-Fi Speeds," 1/1/2012, http://www.fcc.gov/document/chairman-announces-effort-increase-wi-fi-speeds.